IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1688 OF 2006

Sanjeev Rawat, .. Applicant
Vs
State of Maharashtra and anr .. Respondents.

Mr S.V.Marwadi i/b Mr V.V.Yadav, for the applicant.
Mrs M.H.Mhatre, for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 27th July, 2006

P.C.:

1. Heard Mr S.V.Marwadi, learned counsel for the applicant and Mrs Mhatre, learned APP for the respondent-State.

2. By this application, the applicant has made the following prayer:-

> (a) The Senior Inspector of Police, Andheri Police Station, be directed to hand over the original documents in his custody in MECR No.3/1998 by handing over to the investigating officer, the Madhav Nagar Police Station or produced or caused to be produced the same before the learned J.M.F.C. Ujjain, M.P, as per the request letter dated 30th December, 2003;"

It appears that similar prayer was made by the applicant earlier in Criminal Application No.3901 of 2005. That application was disposed of vide order

dated 29.8.2005. It would be advantageous to reproduce the said order as under:

> "1. Heard the learned advocate for the applicant and the learned APP for the State.
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> 2. The applicant is first informant in C.R.No.461 of 1998 registered at Madhavnagar Police Station, Ujjain, Madhya Pradesh. He had lodged the complaint against Mr Monji Shah and others under Sections 406, 409,465,467,468,471 and 120-B of IPC. Mr Manoj Shah had also lodged a complaint against the applicant in which the applicant is accused no.3. The said case is numbered as 634/PW/2004. It is pending before the learned Metropolitan Magistrate Railway Mobile Court, Andheri, Mumbai. There are some documents which are common in both the cases. In the complaint filed by Mr Manoj Shah, the investigation is over. However, in the complaint filed by the applicant at Madhavnagar, Ujjain the investigation is not yet completed as the documents are in the custody of Andheri Police Station in the case where the petitioner is accused no.3. The officer incharge of Madhavnagar Police Station preferred an application before the learned Metropolitan Magistrate, 10th Court, Andheri Mumbai that the documents seized by Andheri Police Station be handed over to them for investigation. The said application came to be rejected, hence, this application.
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> 3. The Investigating Officer in the case of Andheri Police Station, i.e. P.S.I. Damodar V.Bandekar has filed an affidavit wherein it is stated that the police are willing to hand over certified true copy made by the Inspector of Andheri Police Station of the documents which are required by Madhavnagar Police Station. The list of documents is at page 37 to this

> application. In this view of the matter, Andheri Police Station to hand over certified copies made by the officer of Andehri Police Station of the documents at page no.37. The said documents to be handed over to the learned Metropolitan Magistrate, Railway Court, Andheri, Mumbai within a period of ten days from today. The learned Metropolitan Magistrate in turn, to hand over the documents to Investigating Officer of Madhavnagar Police Station.
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> 4. Mr Marwadi stated that the main purpose for which the documents are required, is for seeking the opinion of Handwriting Expert. Mr Marwadi submitted that if the Handwriting Expert is unable to give any opinion on the basis of certified copy, in such case, liberty be granted to the applicant to prefer a fresh application. Liberty as prayed for is granted.
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> 5. Application is disposed of."

It appears that in pursuance of the said order, certified copies of several documents were given to the investigating officer at Madhavnagar Police Station, Ujjain, M.P. The custody of the documents was sought in C.R.No.461 of 1998 registered at Madhavnagar Police Station under sections 406,9 404,465,468, 471 and 120-B of IPC. The handwriting expert has expressed his inability to give any opinion on the basis of the certified copies and in view thereof the applicant has approached this court and has made the aforestated prayer. The investigating officer, Mr R.S.Bodane, ASP from Madhavnagar police station, Ujjain, MP is present in the court in pursuance of the notice issued by this Court on 12.6.2006. Mr Marwadi, learned counsel for the

applicant and Bodane,ASP, jointly submit that at this stage only the original three documents be given in the custody of the investigating officer Mr Bodana, ASP to enable him to refer those documents to the handwriting expert for opinion. The three documents are as follows:-

(i) Power of Attorney dated 22.3.1991 (pages 13 to 23).

(ii) Tenancy Agreement dated 31.7.1991 (pages 34 to 47)

(iii) Contract Agreement dated 31.7.1991 (Pages 48 to 61).

Mr Marwadi further submits that if the opinion of the handwriting expert in respect of the aforestated three documents is adverse to the accused in the case (C.R.No.461/98, Madhav Nagar Police Station), liberty be given to the applicant to make application for reference of the other documents to the handwriting expert at an appropriate stage. Having considered the submissions of the learned counsel for the applicant and having perused the petition and the annexures thereto as also some documents, which were shown to me in the course of arguments, I am satisfied that the following order shall meet the ends of justice:

(a) The Inspector of Andheri Police Station, who is possessing the original documents in connection with CR No.3 of 1998, will hand over the following three documents to Mr Bodana, Investigating Officer in CR

No.461/1998 registered at Mahav Nagar Police Station, Ujjain, M.P on or before 28.7.2006 in a sealed cover.

(i) Power of Attorney dated 22.3.1991 (pages 13 to 23).

(ii) Tenancy Agreement dated 31.7.1991 (pages 34 to 47)

(iii) Contract Agreement dated 31.7.1991 (Pages 48 to 61).

While putting the documents in a sealed cover, they may be shown to the investigating officer at Madhav Nagar Police Station. The Investigating Officers of both the police stations shall put their signatures on the sealed cover to be opened by the handwriting expert.

(b) The handwriting expert, after recording his opinion, shall again in the presence of the investigating officer, put all the three documents in a sealed cover, which the investigating officer at Madhav Nagar Police Station shall again deliver it to the investigating officer at Andheri Police Station. The investigating officer at Andheri Police Station will be allowed to open the sealed cover and after verifying the receipt of the documents again put them in a sealed cover and preserve them to be produced in the case as per the orders of the Court.

(c) The handwriting expert shall give his opinion within five weeks from the date of receipt of the documents.

This entire process shall be completed within ten weeks from today. It is needless to express that the Inspector, Andheri Police Station while handing over the original documents to the investigating officer at Madhav Nagar Police Station, shall retain with him the legible copies of all the three documents and get them duly attested by the senior Inspector of Andheri Police Station.

(d) With these directions, this application is disposed of.

(D.B.BHOSALE,J.)